

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

3M COMPANY,

Plaintiff,

v.

Civil Action 2:20-cv-2932
Judge James L. Graham
Chief Magistrate Judge Elizabeth P. Deavers

PREVENTATIVE WELLNESS
CONSULTANTS, LLC,

Defendant.

ORDER

This matter is before the Court on a motion to appoint counsel filed on behalf of Defendant by an individual whose signature appears to read “Jerry Pfeister.” (ECF No. 5.) For the following reasons, the motion is **DENIED**.

First, the motion asserts indigency and seeks the appointment of a public defender. However, this is a civil matter, not a criminal one. The Sixth Amendment does not create a right to representation in civil cases. *United States v. Detar*, No. 1:04-CV-749, 2005 WL 1705012, at *3 (W.D. Mich. July 20, 2005)(citing *Wolfolk v. Rivera*, 729 F.2d 1114, 1119 (7th Cir.1983)).

Further, although this Court has statutory authority under 28 U.S.C. § 1915(e) to appoint counsel in a civil case, appointment of counsel is not a constitutional right. *Lavado v. Keohane*, 992 F.2d 601, 605 (6th Cir. 1993) (citation omitted). Rather, “[i]t is a privilege that is justified only by exceptional circumstances.” *Id.* at 606. The Court has evaluated whether such exceptional circumstances exist in this case and determines that the appointment of counsel is not warranted at this juncture.

Most significantly, however, Mr. Pfeister is not a named Defendant. (ECF No. 1.) Moreover, the named Defendant is alleged to be a limited liability company with a principal place of business in Columbus, Ohio. (*Id.* at ¶ 18.) A limited liability company cannot be represented *pro se* by its members or managers. *Aero Quest, LLC v. Aviation Leader Gen. Aviation Co.*, No. 217CV02509JTFCGC, 2017 WL 9807436, at *1 (W.D. Tenn. Sept. 22, 2017) (citing *Wilson v. Acadia Dermatology, PLLC*, No. 1:11-cv-00069, 2011 WL 3651779, at *1 (M.D. Tenn. Aug 18, 2011)). Further, there is no question that, as a limited liability company, Defendant cannot legally represent itself in federal court. *Reid v. Herrera Harvesting LLC*, No. 2:17-CV-229, 2020 WL 2473491, at *2 (E.D. Tenn. May 13, 2020). While the motion does not indicate Mr. Pfeister's precise relationship to Defendant, it is clear that he has not entered an appearance as counsel for Defendant.¹ Accordingly, Mr. Pfeister cannot file motions on Defendant's behalf or represent Defendant in any way before this Court.

Finally, Defendant is advised that a corporate defendant who fails to obtain counsel is subject to judgment by default. *See, e.g., Emmet v. Del Franco*, No. 16-CV-11211, 2017 WL 697049, at *10 n.3 (E.D. Mich. Feb. 22, 2017) (advising that corporate defendants failing to obtain counsel would be defaulted). Accordingly, Defendant is **DIRECTED** to secure counsel. Defendant's failure to do so may result in an entry of default.

For the reasons stated above, the motion to appoint counsel (ECF No. 5) is **DENIED**. The Clerk is **DIRECTED** to forward a copy of this Order by regular U.S. Mail and note on the docket the fact of doing so to the following:

¹ The Summons indicates that Mr. Pfeister is Defendant's Statutory Agent. (ECF No. 4.)

Preventative Wellness Consultants,
c/o Jerry Pfeister
4200 Regent Street, Suite 200
Columbus, Ohio 43219

IT IS SO ORDERED.

Date: June 17, 2020

/s/ *Elizabeth A. Preston Deavers*
ELIZABETH A. PRESTON DEAVERS
CHIEF UNITED STATES MAGISTRATE JUDGE